



Lamoine Board of Selectmen

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Minutes of April 1, 2010

Chair Jo Cooper called the meeting to order at 7:00 PM

Present were: Selectmen S. Josephine Cooper, Richard Fennelly Jr., Kermit Theall, Cynthia Donaldson, Gary McFarland; Administrative Assistant Stu Marckoon, Budget Committee Member Kathleen DeFusco, Planning Board members Chris Tadema-Wielandt, Michael Garrett, Michael Jordan; Brett Jones, Walter and Diane Covey, Bill and Rylan Brann, RSU 24 Representative Jon Morren, Hannah Annis (Department of Marine Resources), Transfer Station Attendant Bill Fennelly, Conservation Commission member Carol Korty, and Shellfish Committee members Paul Davis and James Norris. Several other marine harvesters were in the audience as well.

Agenda Review – Jo said there were a few items on the addendum. She said the plan is to hold the hearing on the various ordinances going before town meeting and then have a candidate's night, then proceed with the business portion of the meeting. There was no objection.

Informational Hearing – Shellfishing Ordinance – Jo opened the hearing at 7:01 PM. She noted that several people were at this meeting with interest in the issue. She said she's excited that the ordinance has made it to fruition. Richard said 7-towns have participated in creating the ordinance. He said the flats were hammered pretty hard over the last several years because of red tide events elsewhere in the state. He said he tried to dig some clams a short time ago and most of them are on the low side of the 2-inch limit.

Richard said by creating the ordinance, towns can limit the commercial harvest to primarily residential harvesters. He said for every 10 residential licenses issued, one non-resident license must be issued per state requirement. He said this should take the pressure off the flats from folks from away, and it should increase the value of the harvest. He said many folks here tonight have put a lot of effort into the ordinance. He credited the diggers, Hannah Annis from the Department of Marine Resources (DMR) and folks in other communities. He said it's a pretty good ordinance. Jo said the Selectmen had discussed this years ago, but no one was willing to take on the work.

Hannah Annis (DMR) said the regional approach is the way to go. She said it spreads out the cost of hiring a warden. She said the goal is to make this a self funding program. She said it will allow the area to conduct flat reseeding, close areas to give clams a chance to grow, and it's important to support the 60 or so harvesters in the area. She said this could create jobs and the diggers are very serious about making it work. Richard said Franklin just passed the ordinance. Stu said Hancock would deal with it in a couple of weeks.

Richard said a bad red tide is forecast for the summer, and it has already hit in the Harpswell area. Paul Davis said Frenchman Bay is currently closed due to the heavy rain and runoff.

Carol Korty said the Conservation Commission wanted a way to protect the clam flats and they were pleased when Jim Norris came to them. She said the cooperation among towns and diggers is very impressive.

Ms. Annis said this would be the largest regional program in the state. Richard said the goal is to begin license sales in June. Stu asked who would sell the licenses. Ms. Annis said the City of Ellsworth would sell the commercial licenses; individual towns would sell recreational licenses. She said Ellsworth as the administrative town would also handle the non-resident lottery. She said 10-percent of the sales would go to the administering town; the rest would be put toward the program. She said they have a grant that is ready to go, and that non-residential licenses would generate income as they cost \$600 each. Richard noted that a peck (recreational) license can be issued to a family. Ms. Annis said the cost is \$5/year, with juniors and seniors free.

Chris Tadema-Wielandt asked if there would be just one warden. Ms. Annis said the plan is to start with one. She said there could be more down the road. She explained how the Georges River Program works in mid-coast Maine. She said most diggers have cell phones. She said the program needs a good warden.

Richard said commercial diggers would be required to work some conservation time to get their licenses and shorefront cleanup is included. Ms. Annis said anyone can feel free to join in reseeded and survey efforts. She said she hopes that with regulations, the trespass and the trash issues will decrease.

Ms. Korty asked what happens if one of the towns votes down the ordinance. Ms. Annis said that town would be considered non-residents and fighting for those few licenses. Richard said the cost would be spread among fewer towns. He said he was optimistic it would pass in all the towns. Ms. Annis said Lamoine has the largest number of diggers of the 7-towns involved. She said the value of clams taken in Lamoine was \$120,000. Richard said if the clams are allowed to grow out, the value should increase. He said digging clams can help students pay their way through school.

Ms. Annis said the aim is to keep more of the \$400,000 resource in the communities. Richard said it might be useful to hear about the number of diggers "from away". Paul Davis said there were about 100-diggers from out of town last year. He said the area has become known statewide as the place to go for clams. Brett Jones asked if there has been any effort to notify diggers from away. Richard said it's well known, and there have been threats made if it passes. Ms. Annis said there was a digger meeting. Mr. Jones said it could be a busy first season for the warden.

Ms. Annis said the 10 non-resident licenses are more than required. Jim Norris said the area usually produces 4,000 to 5,000 bushels. He said last year diggers harvested 15,000 bushels, which should tell folks about what's been done. Jo said without protection, the resource will quickly disappear. She thanked those involved for their work.

Building & Land Use Ordinance – Aquifer Protection – Mike Garrett said John Holt who could not attend would be the point person on this set of amendments to the Building and Land Use Ordinance. He said the Planning Board has been working on the amendments to build in aquifer protection for a long time. He said there have been many revisions. He said the southern part of Maine has been dealing with commercial water extraction and many towns were caught without protection. He said the intent of the amendments is to say you can extract water commercially, but there will be restrictions on how to do it. He said the amendments are based on restrictions already adopted in Hancock. He said the Planning Board knows very little about what happens in the aquifer, so a hydro-geological study is required if commercial extraction is proposed.

Jo said some folks came to the Selectmen at the beginning of the year asking for a moratorium on water extraction. Mr. Garrett said they had lots of help from both the Conservation Commission and Professor Willem Brutsaert of the University of Maine in getting to some reasonable standards.

Cynthia remarked that it was difficult to see what is new in the written changes. Mr. Garrett said all the bold type is new text. He said there is only a very short section (on page 4) that has non-bold type which represents the only thing in the present ordinance. A short discussion followed on distinguishing what is new. Jo said the point is, most of the language is new. Carol Korty said the Conservation Commission supports protection, because there has been no evidence that once an aquifer is contaminated that it could be cleaned up. There was a brief discussion about an aquifer pollution problem in Washington County.

Building & Land Use Ordinance – Home Occupations – Chris Tadema-Wielandt said the present ordinance has very little in the way of guidance for handling home occupation requests. He said the Planning Board is charged with approving them, and that seems like the town is overdoing it. He said the new language puts all the home occupation regulations into one section. He said if a person has a true home occupation (no employees outside the family), then no permit is needed. He said the spirit of home occupations is to supplement one's living by doing work at home. He said once a business starts hiring people and creating traffic, that is where the need for a permit lies, and the Code Enforcement Officer could handle that. He said more than 1-non family employee would require a commercial or industrial permit, which would go to the Planning Board.

Mr. Tadema-Wielandt said they've tried to simplify the matter and encourage people to have in-home occupations. Jo said it makes sense and it's nice to reduce the requirements. Mr. Garrett said if someone starts a home occupation without a permit, they must comply with the present restrictions.

Donation Review Ordinance – Jo said this resulted from a suggestion from the Budget Committee. Stu explained that the proposed change would reduce the maximum amount that could be recommended by the Budget Committee and Selectmen down to

\$500 and inclusion of a check off form with the tax bills to cover requesting agencies which would be funded by any voluntary contributions included with the tax payment.

Ms. Korty asked if it was still the rule that a requesting agency must show up to meet with the budget committee. Stu said that was a Budget Committee policy that is not in the ordinance, and the Budget Committee relaxed that this year. Cynthia said any new requester must show up.

The hearing ended at 7:31 PM

Candidate's Night – The three candidates for Selectmen took questions from Jo and the audience during a roughly ½ hour public forum.

Regular meeting – Cynthia said she appreciated Jo making the candidate's night happen.

Meeting with CEO/Planning Board – The proposed meeting for this night will be postponed until April 29, 2010. Stu will communicate that to the Planning Board.

Minutes of March 18, 2010 – Richard had some proposed changes to clarify the RSU 24 discussion section. Cynthia asked about the AFG grant and the language on the Chickadee Lane section. Jo moved to approve the minutes with the proposed changes. Gary 2nd. **Vote in favor was 5-0.**

Expenditure Warrant 19 – Selectmen signed expenditure warrant 19 for \$17,550.80. Stu noted the largest expense was for the new photocopier. There was a very brief discussion about the new copier and the demonstration models, one of which remained at the town hall and was expected to be picked up the next day.

Cash & Budget Report – Richard requested that the expense amount for the fire truck purchase in that separate column be expressed as a negative number.

Excise Tax Report – Stu noted that the excise tax receipts for 2010 were up \$200 from the 1st quarter of 2009.

Snow Removal Contract – Richard asked if it's contemplated that the town pay for the school plowing. Stu said the town would pay, then bill RSU 24 and be reimbursed by them for that. Richard asked that the boxes on the monthly payment section be reformatted to be consistent with the rest of the contract. Jo asked what happens next. Stu said if the Selectmen are comfortable with the language, he would send the draft to Richard McMullen for his review. Richard asked what changes there were from the present contract. Stu said he changed the contractor's name and the prices, and added the section about plowing the school separately and the town billing RSU 24. Jon Morren said he appreciated the town taking care of contracting for plowing. Mike Jordan asked if he could look over the contract. Stu said most definitely and gave him a copy.

Freedom of Information Act (FOIA) Request – Jo said Robert Sharkey has written another letter to the Selectmen, and she still doesn't understand what he wants. Richard said he spoke to Mr. Sharkey by telephone and asked, and he was looking for the vouchers for expense reports for each month of last year. Cynthia said it appears Mr. Sharkey wants the report to come from the Selectmen and not Stu. She said the Selectmen are being asked to fulfill the request.

Kermit said he doesn't keep the packet folders. Richard asked how often Stu submits vouchers for mileage and other expense reimbursements. Stu said he keeps a sheet in his vehicle and when it's full, he turns it in for the warrant payment. Jo said she doesn't have time to go through all the records. Richard said he's not able to make it in to the town office during the day. Cynthia said it didn't sound all that difficult. Jon Morren said the official public record is stored here at the town hall, and this seems to be a request to duplicate something that has already occurred. He said the implication is that the records are somehow compromised. Richard said he thinks what Mr. Sharkey is asking for, and it was not clear in the first letter, was for all expense reports for each month of last year.

Brett Jones said it's ironic that the official public records are those generated by Stu in the first place. He said the town is audited every year. He said this is the 3rd year there has been a fishing expedition and asked at what point does the board stop wasting town money going down this road. Jo said she doesn't have the time to do the research requested. She said the town is audited and the warrants are posted on line. She said the bills are available if one wants to go through them. Stu said the town report has a listing of who is paid what every year. She asked why the Selectmen have to take their time to generate information for Mr. Sharkey that goes beyond the scope of FOIA. There was a brief discussion about the requirements of the FOIA. Richard said maybe Town Clerk Jennifer Kovacs or Assistant Clerk Diane Carter could pull together the information for one of the Selectmen to sign off on.

Stu asked if Mr. Sharkey wanted to see all the payment invoices for expenses paid to him. Richard said Mr. Sharkey wanted the expense reimbursement detail. Jo and Kermit said the town has bent over backwards for him. Mr. Jones asked if there is a limit to the number of FOIA requests. Richard said to the extent that new information is requested, that's fine. He said it would not seem reasonable to keep requesting the same information over and over. A short discussion followed.

Property Tax Review Board Decision – Stu noted the decision was in the Selectmen packets. He said the assessors made an initial consultation with an attorney. Mike Jordan said the Board of Assessors will meet with the Selectmen at the 4/29/10 meeting.

Boat Ramp Repair Letter – Jo said the letter has been drafted and moved that she sign it. Gary 2nd. **Vote in favor was 5-0.**

Tree Removal Policy – Jo moved to sign the policy which had been signed by the Road Commissioner, EMA Director and Fire Chief. Kermit 2nd. **Vote in favor was 5-0.**

Town Meeting Issues – Stu said the road budget could be reduced to reflect the lower amount of snow removal. He said if the board had no problem with that, he would move to do so on the floor of open town meeting. There was no objection.

Stu reported the power point program is also ready to roll.

Referendum vs. Open Town Meeting – Stu said he'd reformatted and added a couple of questions to the draft that Cynthia put out. Richard said he sent some changes via e-mail earlier in the day. Stu said it had not come in; there are still some e-mail issues.

Cynthia said Stu was able to check the reading level through the Word Program, and she wants to make sure it's not scary. Selectmen will review the matter on April 29th.

Verizon Tower Update – Stu reported he received a phone call last week from the tower people asking when the roads would be unposted and he gave them a route that would avoid posted roads. He said he expects the tower to start arriving either tomorrow or next week. There was a discussion on when the rental payments are supposed to start. Jo said it would appear an invoice is in order. Stu said he would do that. A brief discussion about personal property followed, Stu noting that telecommunication property is not taxable locally, but is taxed instead by the state.

Facilitated Meeting – Selectmen reviewed a draft memo to Ron Beard. Cynthia asked to remove the reference to "baby steps" in regard to the shellfish ordinance and the cell phone tower which were actually fairly major actions. Mr. Jones asked why the meeting was being facilitated. Jo said the Selectmen would like to participate and they want a point person to run the meeting and make it productive. She said she wants to make sure people have a chance to be heard.

Stu asked if the Selectmen wish to have the town meeting format question discussed at this meeting as well. The Board said it did not; it wanted to concentrate on development.

Mr. Jones said on the broadband issue, maybe the town could use some of the franchise fees to front fund expansion with the payback coming after the front money. Stu noted this issue is on the agenda addendum.

Lamoine Quarterly – Selectmen had no objection to printing the latest draft.

Letter supporting Axiom / ConnectME Grant – Stu reported that there was no rebuttal to the filing by Axiom. He said he e-mailed the application to the Selectmen, and that it included a build out into Hancock. He said he drafted a letter of support for the Axiom application. Jo moved to sign the letter. Kermit 2nd. **Vote in favor was 5-0.**

Citizen of the Year – Selectmen signed a certificate to honor Lamoine's Citizen of the Year, to be presented at Town Meeting.

Town Office Burglary – Stu reported on a break-in at the town office on March 27, 2010 at about 1:30 AM. He said he'd received a phone call from the juvenile who broke

the front door window earlier in the day, and the call disconnected shortly after he told the young man the damage was about \$750. Jo suggested that the young man should pay what he could toward the cost. Stu said the state trooper investigating the incident advised to get all the restitution at once. There was a brief discussion about restitution through the court system.

Jo moved to approve paying the bills for the window replacement from the insurance deductible fund. Gary 2nd. **Vote in favor was 5-0.**

State Valuation – Stu said this is the first time he can recall that the proposed state valuation will be lower than the previous year. Richard said that might help with EPS. There was a very brief discussion.

Local School Advisory Follow Up – RSU 24 representative Jon Morren said the local committee has recommended that the Selectmen consider putting out to town meeting the question about whether to fund debt service at MDI High School. He noted there was a large group of MDI supporters at the previous week's School Advisory Committee meeting. He said he is not sure that the Selectmen could legally do that.

Richard noted the issue has been discussed at length. Mr. Morren said there is a concern that the MDI structure would find that there is an inequity and they could limit the students from Lamoine attending MDI High School. He said the superintendent said that they could limit students from one town as long as it was not discriminatory. He recapped the various issues around the debt service charge.

Jo said the Selectmen need to hear from folks. Richard said he watched the TV replay of the meeting and paid attention especially to what MDI Superintendent Liebow was saying. He said he thinks he knows when to call someone's bluff. He said it would be insane for MDI to pass up \$276,000 in tuition to go after \$27,000 of debt service. He said MDI would have to raise the \$276,000 in their own property taxes to make up for the loss. Mr. Jones said the inequity appears to be with Trenton. He said there is a lot of hot blood over tuition on the island for years. He said there will be a lot of heated debate. A short discussion followed.

Stu said the intent of the matter being placed on tonight's addendum was to let the Selectmen know that the issue is coming.

Next meeting – The next meeting will be on April 15, 2010 at 5:30 PM and will be an organizational meeting only. The next regular meetings will be on April 29, 2010 and May 13, 2010.

There being no further business, the meeting adjourned at 9:11 PM

Respectfully submitted,

Stu Marckoon, Adm. Asst. to the Selectmen